



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2015-0329]

RIN 1625-AA08

Special Local Regulations for Marine Events, Atlantic Ocean;

Atlantic City, New Jersey

AGENCY: Coast Guard, DHS.

ACTION: Temporary Final Rule.

SUMMARY: The Coast Guard is temporarily changing the enforcement date of the special local regulation for the recurring OPA Atlantic City Grand Prix boat race, held in the waters of the North Atlantic Ocean, adjacent to Atlantic City, New Jersey. The change of enforcement date for the special local regulation is necessary to provide for the safety of life on navigable waters during the event. This action will restrict vessel traffic in the waters of the Atlantic Ocean adjacent to Atlantic City, New Jersey, during the event, from 10:00 a.m. to 6:00 p.m. on June 20, 2015 and June 21, 2015.

DATES: This rule is effective June 20-21, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2015-0329]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lieutenant Brennan Dougherty, U.S. Coast Guard, Sector Delaware Bay, Chief Waterways Management Division, Coast Guard; telephone (215)271-4851, e-mail Brennan.P.Dougherty@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
COTP	Captain of the Port

A. Regulatory History and Information

The regulation for this recurring marine event may be found at 33 CFR 100.501, Table to § 100.501, section (a), line "4". This year, the date is different than published in the Table, so this temporary final rule has been issued.

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b) (B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because information about the new date was not received by the Coast Guard with sufficient time to publish a Notice of Proposed Rulemaking.

Under 5 U.S.C. 553(d) (3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register for the same reason: There was not enough time to publish the final rule more than thirty days before the event date.

B. Basis and Purpose

The legal basis and authorities for this rulemaking

establishing a special local regulation are found in 33 U.S.C. 1233, which authorize the Coast Guard to establish and define special local regulations.

The purpose of this special local regulation is to provide for the safety of participants, spectator craft, and other vessels transiting the event area while the boat race is occurring.

C. Discussion of Rule

The Coast Guard has previously published a list of annual marine events within the Fifth Coast Guard District and special local regulation locations at 33 CFR § 100.501. The Table to § 100.501 identifies special local regulations by COTP zone, with the COTP Delaware Bay zone listed in section "(a.)" of the Table. The Table to § 100.501, at section (a.) event Number "4", describes the enforcement date and regulated location for this marine event.

The date listed in the Table has the marine event on the fourth Sunday of June. However, this temporary rule changes the marine event date to June 20, 2015 and June 21, 2015, to reflect the actual date of the event.

The Coast Guard will temporarily suspend the regulation listed in Table to § 100.501, section (a) event Number "4", and insert this temporary regulation at Table to § 100.501, at section (a.) as event Number "15", in order to reflect that the special local regulation will be effective and enforced from

10:00 a.m. until 6:00 p.m. on June 20, 2015 and June 21, 2015.

This change is needed to accommodate the sponsor's event plan.

No other portion of the Table to § 100.501 or other provisions in § 100.501 shall be affected by this regulation.

The regulated area of this special local regulation includes all the waters of the North Atlantic Ocean, adjacent to Atlantic City, New Jersey, bounded by a line drawn between the following points: From a point along the shoreline at latitude 39°21'50" N, longitude 074°24'37" W, thence southeasterly to latitude 39°20'40" N, longitude 074°23'50" W, thence southwesterly to latitude 39°19'33" N, longitude 074°26'52" W, thence northwesterly to a point along the shoreline at latitude 39°20'43" N, longitude 074°27'40" W, thence northeasterly along the shoreline to point of origin at latitude 39°21'50" N, longitude 074°24'37" W.

A fleet of spectator vessels is anticipated to gather nearby to view the marine event. Due to the need for vessel control during the marine event vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels. Under provisions of 33 CFR § 100.501, during the enforcement period, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander.

The Coast Guard may assign an event patrol, as described in 33 CFR 100.40, to each regulated event listed in the table.

Additionally, a Patrol Commander may be assigned to oversee the patrol. The event patrol and Patrol Commander may be contacted on VHF-FM Channel 16. During the event, the Coast Guard Patrol Commander may forbid and control the movement of all vessels in the regulated area(s). When hailed or signaled by an official patrol vessel, a vessel in these areas shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both. The Coast Guard Patrol Commander may terminate the event, or the operation of any vessel participating in the event, at any time it is deemed necessary for the protection of life or property. Coast Guard Sector Delaware Bay will notify the public by broadcast notice to mariners at least one hour prior to the times of enforcement.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3)

of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this regulation will restrict access to the regulated area, the effect of this rule will not be significant because: (i) the Coast Guard will make extensive notification of the Special local regulation to the maritime public via maritime advisories so mariners can alter their plans accordingly; (ii) vessels may still be permitted to transit through the special local regulation with the permission of the Captain of the Port on a case-by-case basis; and (iii) this rule will be enforced for only the duration of the boat race.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to anchor or transit in the waters of the North

Atlantic Ocean, adjacent to Atlantic City, New Jersey, on June 20, 2015 and June 21, 2015 from 10:00 a.m. to 6:00 p.m., unless cancelled earlier by the Captain of the Port.

This special local regulation will not have a significant economic impact on a substantial number of small entities for the following reason: vessel traffic will be allowed to transit through the area with permission of the Coast Guard Captain of the Port, Delaware Bay, or his designated representative and the special local regulation is limited in size and duration. Sector Delaware Bay will issue maritime advisories widely available to all waterway users.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about

this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. .
Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves

implementation of regulations within 33 CFR Part 100, applicable to special local regulations on the navigable waterways. This zone will temporarily restrict vessel traffic from transiting the waters of the Atlantic Ocean adjacent to Atlantic City, NJ, in order to protect the safety of life and property on the waters for the duration of the air show. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and

recordkeeping requirements, Security measures, Waterways

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. In the Table to § 100.501:

a. Suspend line No. (a.)4; and

b. Add line No. (a.)15 to read as follows:

§100.501 Special Local Regulations; Marine Events in the Fifth Coast Guard District.

* * * * *

No.	Date	Event	Sponsor	Location
(a.) Coast Guard Sector Delaware Bay - COTP Zone				
* * * * *				
15	June-20, 21 th	OPA Atlantic City Grand Prix	Offshore Performance Assn. & New Jersey Offshore Racing Assn	The waters of the North Atlantic Ocean, adjacent to Atlantic City, New Jersey, bounded by a line drawn between the following points: From a point along the shoreline at latitude 39°21'50" N, longitude 074°24'37" W, thence southeasterly to latitude 39°20'40" N, longitude 074°23'50" W, thence southwesterly to latitude 39°19'33" N, longitude 074°26'52" W, thence northwesterly to a point along the shoreline at latitude 39°20'43" N, longitude 074°27'40" W, thence northeasterly along the shoreline to point of origin at latitude 39°21'50" N, longitude.074°24'37" W.
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Dated: June 2, 2015

B. A. COOPER
Captain, U.S. Coast Guard
Captain of the Port Delaware Bay

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6/19/2015]